

FEDERAL COURT OF APPEAL

B E T W E E N:

JASON WATTLEWORTH

Applicant

- and -

UNIFOR LOCAL 25

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at the Courthouse located at 180 Queen Street West, Suite 200, Toronto, Ontario M5V 3L6.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DATE: March 20, 2024 **Issued By:** _____
Local Registrar

Address of 180 Queen Street West, Suite 200,
the Court: Toronto, Ontario M5V 3L6

TO: THIS HONOURABLE COURT

AND TO: UNIFOR LOCAL 25
205 Placer Court
Toronto, Ontario M2H 3H9

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Lawyers for the Respondent, Bell Canada

APPLICATION

This is an application for judicial review in respect of a decision of the Canada Industrial Relations Board (the “Board”), issued pursuant to the *Canada Labour Code*, by Ms. Allison Smith, Vice-Chairperson, and Ms. Lisa Addario and Mr. Thomas Brady, Members, on the 21st day of February 2024, bearing file number 036902-C (the “Decision”), dismissing the applicant’s complaint without a hearing.

THE APPLICANT MAKES APPLICATION FOR:

1. Judicial Review of the Board’s decision which dismissed the Applicant’s complaint against the Respondent without a hearing.
2. An Order setting aside the Board’s Decision.
3. An Order declaring that the Applicant’s complaint bearing file number 036902-C was filed in time.
4. Additionally, or in the alternative to the relief sought at paragraph 3, an Order referring the Applicant’s complaint bearing file number 036902-C back to the Board for a new determination on the merits in accordance with the following directions:
 - a. The complaint bearing 036902-C and 036903-C shall be consolidated and heard at the same time by the Board.
 - b. The consolidated complaints bearing 036902-C and 036903-C shall proceed to an oral hearing before the Board.
 - c. At least sixty days before the oral hearing before the Board, the respondent UNIFOR, shall produce i) its complete documentary file pertaining to the Applicant ii) all correspondence, notes, documents, records, etc. exchanged between the respondent and Bell Canada regarding the applicant From January 1, 2020 to date iii) all correspondence, notes, documents, records, etc exchanged between the respondent and Bell Canada regarding the grievances 25-21-140, 25-21-141,

and/or 25-21-147; and, iv) all correspondence, notes, documents, records, etc exchanged between the respondent and Bell Canada regarding Bell Canada's implementation of its policies and procedures related to COVID-19.

- d. Such further and other directions for the hearing as the applicant may request or this Honourable Court may permit.

5. An Order that this application for judicial review be consolidated with or heard at the same time as the applicant's related application for judicial review of the Board's decision bearing file number 036903-C;

6. An Order for the applicant's costs of this application if it is opposed; and

7. Such further and other relief that this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

8. The Decision of the Board was made without full consideration to the principles of procedural fairness, natural justice, and other procedures it was required to follow.

9. The Decision of the Board erred in law by misapplying the legal test for determining whether the complaint was out of time and made that determination in a capricious and arbitrary manner without a hearing and without considering relevant materials in the possession of the respondent that it refused to produce.

10. The Board failed to rule on the applicant's request for documentary disclosure; the Board failed to rule on the parties' agreement that the applicant's two related complaints bearing file numbers 036902-C and 036903-C be consolidated and heard together; and that the Board did not consider all the relevant facts of the of the complaint before rendering its decision.

11. The applicant relies on section 22 of the *Canada Labour Code* RSC 1985, c. L-2, and sections 18, 18.1 and 18.4 of the *Federal Courts Act*, RSC 1985, c F-7 and Rules 301 to 319 of the *Federal Courts Rules*, SOR/98-106.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

12. The written Decisions of the Board;

13. All materials and documents filed and exchanged in the complaints bearing Board File No.: 036902-C and 036903-C;

14. The affidavit of Jason Wattleworth;

15. Such further and other evidence and exhibits which may be tendered, as counsel may advise, and this Honourable Court may permit.

16. The applicant requests the Board to send a certified copy of the following material that is not in the possession of the applicant but is not in the possession of the Board to the applicant and to the Registry including all correspondence, documents, materials, and notes generated through its consideration of the complaints bearing Board File No.: 036902-C and 036903-C.

March 20, 2024

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